



VILLAGE OF BROCKPORT

49 State Street · Brockport, New York 14420
Telephone (585) 637-5300 · Fax (585) 637-1045
Website: www.brockportny.org

*The Victorian Village on the Erie Canal
Preserve America Community
Listed on the State and National Registers of Historic Places
Certified Local Government
Tree City USA Community
Erie Canalway Heritage Award of Excellence
Climate Smart Community*

VILLAGE OF BROCKPORT REQUEST FOR PROPOSALS ESCO

The Village of Brockport, NY is issuing a Request for Proposals (RFP) for the selection of an energy service company (ESCO) to implement a facilities improvement project. The proposals shall consist of qualifications, experience, financial proposal and staffing plan.

ESCO's that are interested in being considered must submit a proposal in response to the RFP on or before June 3, 2016.

A mandatory pre-proposal conference will be held at 49 State Street Brockport, NY 14420 on May 16, 2016 at 1pm.

The successful ESCO will be determined solely from the proposals. However, the Village reserves the right to interview all of the respondents if it so chooses.

An original and 7 copies of the proposal are required. To prevent opening by unauthorized individuals, your submittal should be identified on the envelope as follows:

PROPOSAL ENCLOSED TIMED MATERIAL Energy Performance Services Project

The proposal shall be addressed to:

Daniel Hendricks
49 State Street
Brockport, NY 14420

The Village reserves the right to amend the RFP based on questions and issues raised during the conduct of this solicitation.

The complete specifications can be found on the Village of Brockport website at www.brockportny.org.

Leslie Ann Morelli
Village Clerk
Village of Brockport

For publication in Suburban News and posting on Village website and at Village Hall.

Mayor Margaret B. Blackman
Trustee/Deputy Mayor William G. Andrews
Trustees Annette M. Crane, Katherine J. Kristansen, John D. LaPierre

**VILLAGE OF BROCKPORT, NEW YORK
NOTICE TO ENERGY PERFORMANCE COMPANIES**

**GENERAL INFORMATION AND REQUEST FOR PROPOSALS
FOR AN ENERGY PERFORMANCE CONTRACTOR**

The VILLAGE OF BROCKPORT, NEW YORK is issuing this Request for Proposals (RFP) for the selection of an energy service company (ESCO) to implement a facilities improvement project. The proposals shall consist of qualifications; experience, financial proposal and staffing plan.

ESCO's that are interested in being considered must submit a Proposal in response to this RFP on or before JUNE 3, 2016.

A mandatory pre-proposal conference will be held at 49 STATE STREET BROCKPORT, NY 14420 on MAY 16, 2016 at 1:00 PM.

The successful ESCO will be determined solely from the Proposals. However, the Village reserves the right to interview all of the Respondents if it so chooses.

An original and 7 SEVEN copies of the proposal are required. To prevent opening by unauthorized individuals, your submittal should be identified on the envelope as follows:

PROPOSAL ENCLOSED TIMED MATERIAL
Energy Performance Services Project

The proposal shall be addressed to:

Daniel Hendricks
49 STATE STREET, BROCKPORT, NY 14420

The Village reserves the right to amend the RFP based on questions and issues raised during the conduct of this solicitation.

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Enclosures:

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APPENDIX A: PRE-PROPOSAL CONFERENCE AND SITE VISITS

APPENDIX B: PROPOSAL FORMS

APPENDIX C: NEW YORK STATE ENERGY LAW

APPENDIX D: FACILITY AND UTILITY INFORMATION

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VILLAGE OF BROCKPORT, NEW YORK

PROPOSAL INSTRUCTIONS AND CONDITIONS

REQUEST FOR PROPOSALS FOR AN ENERGY PERFORMANCE SERVICES PROJECT

I. INTRODUCTION AND BACKGROUND

The objective of this Request for Proposals (RFP) is to solicit proposals for an energy performance project to assist the VILLAGE OF BROCKPORT, NEW YORK in making the Village's buildings and infrastructure as efficient as practical through the installation of new equipment, energy conservation measures and implementation of optimally efficient operation and maintenance procedures. The Village wishes to implement the proposed energy project on an energy performance contract basis. (See State Energy Law, Article 9), attached as Appendix C.

The Village will only consider performance contract proposals based on a guaranteed savings agreement, i.e. savings, increased revenues and/or guarantee payments will equal or exceed the cost of the lease payments or debt service.

It is expected that savings and/or guarantees provided by the ESCO selected pursuant to this RFP will fully offset the project costs involved for the Village. Proposers should propose arrangements for acquisition, financing, and ownership of equipment to be installed as part of this project that responsibly maximize the net economic benefit to the Village or reduce the risk to the Village.

Proposers may include financing provided directly by the ESCO or through a third party where doing so will be advantageous to the Village.

II. GENERAL INFORMATION

The qualifications, experience, financial terms and staffing plan of ESCO's proposing to implement this comprehensive performance services project for the Village on a performance contracting basis will be evaluated and ranked. Written questions will be received by the Village until **MAY 20, 2016**. Questions shall ONLY be submitted to Daniel Hendricks via email at dhendricks@brockportny.org.

The ESCO selected, as a result of this RFP will be expected to:

- A. Provide comprehensive performance services, including but not limited to:
1. The performance of an investment quality comprehensive performance audit.
 2. The design and specification of the proposed equipment and systems.

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3. Services associated with the procurement, installation, and commissioning of new equipment and systems.
 4. Preventive and emergency maintenance and servicing of the equipment installed.
 5. Staff training.
 6. Services in connection with the arrangement of program financing.
 7. Savings/revenue enhancements performance guarantees.
 8. The ESCO must work cooperatively with the Village staff in coordinating this project.
 9. Maximize available incentives/rebates from government agencies and/or utility companies (i.e. NYSERDA)
- B. Identify measures that can be taken to reduce operating costs for all activities and energy sources including natural gas and electricity and to reduce consumption for heating, cooling, ventilation, refrigeration, lighting, water heating, and other systems in each facility. Measures may involve controlling, modifying, adding, or replacing equipment and systems.
- The proposed contract resulting from the Comprehensive Audit shall include a table of the identified measures that clearly lists the costs and benefits of each measure to allow the Village to select the group of measures to be included in the final contract.
- C. Structure the terms of the Village's obligation to pay for the services provided on a performance-contracting basis. Payments from the Village to the ESCO selected under the RFP must be contingent and based in some fashion on the level of energy savings achieved. The savings and/or guarantees provided by the ESCO selected pursuant to this RFP will fully offset the project costs involved for the Village.

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III. THE SELECTION PROCESS

A. Timetable

The Village expects to undertake the selection process according to the following schedule:

Pre-proposal meeting	1:00 PM - May 16, 2016
Deadline for receipt of written questions	May 20, 2016
Proposal Submission	June 3, 2016
ESCO interviews	(at the Village's discretion)
ESCO selection	June 10, 2016
Submission of final audit	August 12, 2016

B. Proposal Evaluation Criteria

Upon review of proposals received in response to this RFP, the Village expects to select a single ESCO to provide comprehensive energy services as outlined in Section II above. If a viable project is identified following the comprehensive energy audit, the ESCO and the Village will then negotiate an energy performance contract to provide for the implementation of the proposed project.

Proposals will be evaluated on the basis of the following criteria:

1. Qualifications and Project Experience Rating

Points will be awarded based on demonstrated experience with similar projects as reported in the Project Experience Section and responses from project references. Experience with similar projects will be understood to include development of performance contracts, design-build projects, or as a first tier subcontractor on a significant design-build/performance contract project.

2. Staffing Plan

Points will be awarded based on qualifications of proposed project team professionals, documented technical and project administration skills, and experience of the proposed project team. Only those individuals proposed to work directly on the subject project should be included in the Staffing Plan. Project teams that are primarily or completely composed of staff from the proposer will be ranked higher. Indicate what disciplines will be self-performed and supply resumes for all superintendents and foreman that will make up the self-performance team.

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3. Technical Capability

Points will be awarded based on the approach your organization will take in delivering the comprehensive technical services required to audit, design, install, monitor and maintain the proposed energy efficiency improvements. Project teams that can deliver the aforementioned project services primarily or completely composed of staff from the proposer's organization will be ranked higher.

4. Financial Terms

The Village is interested in selecting an ESCO that conducts business with a philosophy of full disclosure of all project costs. Construction mark-up will be the primary factor evaluated for the value brought to the Village by the proposed approach to project implementation.

Consideration will be given to proposals that responsibly maximize the net economic benefit to the Village over the term of the energy services agreement, and that responsibly minimize the risk to the Village in connection with the proposed transaction.

Factors that will be considered include: construction mark-up per the Projected Implementation Costs form included in Appendix B of the proposal, the proposed term (length) of the energy services agreement, the approach to project financing, and the projected net dollar benefit to the Village from entering into the transaction. It will be required that all respondents provide a parental guarantee. A commitment letter from the parent company will be required with this response.

5. Proposed Project Schedule

Proposals will be evaluated on the reasonableness, clear presentation, length and detail of the proposed project schedule. The proposal should include descriptions of how the proposer intends to achieve the project schedule.

6. Official Statement of the Proposer

C. Final ESCO Selection

The award of this contract may be made to the Proposer whose solicitation best meets the needs of, and is the best interest of the Village.

The Village reserves the right to implement the project in multiple phases and award future phases to the ESCO selected via this RFP.

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IV. RFP PROCEDURES

A. Point of Contact

Daniel Hendricks dhendricks@brockportny.org

B. Submission of Proposal

Respondent must submit an original and 7 (seven) copies of their Proposal.

C. Proprietary Information

The New York State Freedom of Information Law, Public Officers Law, Article 6, provides for public access to information. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that are "trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information that the proposer wishes to have treated as proprietary and confidential trade information should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be accepted. Such information will be treated in accordance with the provisions of Public Officers Law, Section 89(5). The Village will protect such material from disclosure. If, however, such materials are required by law to be disclosed, the Village will notify the respondent.

D. Modification or Withdrawal of Proposals

Any proposal may be withdrawn or modified by written request of the proposer, provided such request is received by the Village at the above address prior to the date and time set for receipt of proposals.

E. Right to Reject Proposals

This RFP does not commit the Village to award a contract, pay any cost incurred in the preparation of a proposal in response to this RFP, or procure or contract for services. The Village intends to award a contract on the basis of the best interest of the Village, and reserves the right to accept or reject any or all proposals received as a result of this request. The Village reserves the right to negotiate with all qualified proposers, or to cancel this RFP in part or in its entirety, if it is in the best interest of the Village to do so

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V. PROPOSAL: FORMAT AND CONTENTS

Proposals must be submitted in the format outlined in this section. The Village reserves the right to eliminate from further consideration any statements deemed to be substantially or materially non-responsive to the requests for information contained herein.

A. Contractor Background and Qualifications

Section A-1 of the proposal must contain a project management summary including the makeup of the project team and the proposed assignment of responsibility for the major tasks involved in the total project. Include the quantity and type of professionals in local office that will support this project. Specifically include the number of mechanical design engineers, service technicians, project managers and senior management in the local office. Include resumes for each of the individuals listed as lead personnel in Section A-1 as an appendix. No credit will be granted during the evaluation process for the experience of anyone who will not be directly involved in implementing this project. Include the Energy Performance Contracting experience of the officers of the company in the local office (Vice President or higher.) If your firm is not headquartered locally, discuss the mechanism that will guarantee the local support services necessary for completing and servicing this project through the term of the contract. Companies that are headquartered locally will be ranked higher.

If the proposer will have single source responsibility for all portions of the project, they need only respond to **Part I**. If the proposer anticipates additional prime contractors with individual responsibility to the Village, describe the selection process for the selection of these prime contractors in **Part II**.

PART I: Part I should describe the overall make-up of the project team and each member's areas of responsibility with address, telephone numbers, names of contact persons and of lead personnel. Include a chart depicting the management structure envisioned for the project. Describe the process to be followed in selecting and managing subcontractors, if any.

PART II: Part II should provide information about the areas of responsibility for additional prime contractors and the process to be followed in their selection.

In a Section to be labeled **Section A-2**, Provide the most recent annual report, financial statements, or other financial information sufficient to permit the Village to evaluate the financial strength of the proposer.

In a Section to be labeled **Section A-3**, describe the prior relevant experience of the proposer, not of the partners or parent thereof (i.e. experience with a similar project or projects that have been either a design-build project, an energy performance contract or as a first-tier subcontractor involved in a design-build/energy performance contract.) For each organization include the information listed below.

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Each project description (not to exceed 1 page) should include:

- (a) Customer's name and address.
- (b) Total contract cost.
- (c) Name and telephone number of references for the project. (Village presumes permission to contact).
- (d) Brief description of the project's scope of services and status. (Include type of facility at which project was implemented, whether the project was completed on the original schedule and whether significant problems occurred that affected project performance. As appropriate, identify all prime contractors or subcontractors and their role in each project.) This section should be used to demonstrate the firm's experience in completing a project using the technologies relevant to the Village's facilities.

The right to call the references provided by the proposer will be presumed by the Village.

B. Technical Aspects of the Proposal

Your proposal must explain the approach your organization will take in delivering the comprehensive technical services required to design, install, and maintain the proposed energy efficiency improvements. Describe your organization's ability to provide the following services in-house: design-build engineering; sheet metal, piping and plumbing fabrication; full capabilities for mechanical system design and retrofit installation; and testing, adjustment and balancing of air conditioning and ventilation systems. Actual designs/specifications are not required at this time.

In a Section to be labeled **Section B-1**, describe the Comprehensive Energy Audit that will be conducted for this project after selection of an ESCO on the basis of this RFP. Your proposal must include information on the systems to be covered, the personnel to be involved, the general method to be used, the time frame, and the fee, if any, to be charged in the event the district decides not to proceed with project implementation.

In a Section to be labeled **Section B-2**, describe in detail the method you will use to compute the energy baseline.

In a Section to be labeled **Section B-3**, provide a preliminary assessment of the energy efficiency opportunities available at the facilities, based on the information provided in this RFP and a tour of the facilities. List the energy efficiency measures to be implemented under your proposal with the estimated implementation cost and the energy cost savings.

In a Section to be labeled **Section B-4**, describe the ongoing project monitoring and maintenance services your company will provide. Specifically, describe the personnel, schedules, conditions, equipment covered, and extra costs (if any) of the following services:

- (a) Scheduled preventative maintenance
- (b) Emergency service
- (c) Training of on-site staff
- (d) Monitoring of energy use

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Identify who will have supervisory responsibility for your firm's maintenance and monitoring operations in this project. Indicate how this work will be coordinated with the daily operations of the facility.

C. Financial Aspects of the Proposal

The Village seeks to enter into a project arrangement under which the Village will assume ownership of the energy efficiency improvements upon their installation and acceptance. The Village also seeks to structure compensation to the contractor such that payments to finance equipment and public works services plus payments for ongoing project management services will be paid in full or part by the value of measured energy savings resulting from the project. It will be required that all respondents provide a parental guarantee of these savings. A commitment letter from the parent company will be required with this response.

The proposer may propose any underlying project financing mechanism so long as it meets the objectives above and complies with New York State laws, rules, and regulations.

In addition to the following, respondents must also submit the "**Project Implementation Costs**" form attached in Appendix B.

Detailed Financial Information Required:

In a Section to be labeled **Section C-1**, based on the information provided in this RFP and your inspection of the facilities, estimate the following costs:

1. Initial Project Costs:
 - (a) Comprehensive Energy Audit
 - (b) Designs and specifications for energy efficiency measures
 - (c) Implementation costs for the energy efficiency measures
 - (d) Total Initial Project Costs

2. Annual Costs:
 - (a) Maintenance costs
 - (b) Training costs
 - (c) Measurement and Verification
 - (d) Other service fees (specify)

In a Section to be labeled **Section C-2**, outline the proposed terms of the contract with the Village covering:

- (a) Duration of the contract
- (b) Methods by which the level of payments to the contractor will be determined including: level of guarantees, methods by which energy savings will be evaluated (i.e. values to be used for unit prices of fuels and electricity)

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- (c) The nature and operation of any guarantee provisions, including conditions under which the guarantee can be invoked and the methods for adjusting payments to the contractor.
- (d) Ownership of the equipment (Specify if alternative financing and ownership is proposed and provide explanation in **Section F**).
- (e) Conditions for the early termination of the contract, or parts thereof, by the district and the contractor.

In a Section to be labeled **Section C-3**, please complete the annual financial projections indicated below for the length of the proposed contract. Assume that payments will be made annually at the end of the period.

YEAR	1	2	3	4	5 ...
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1. Annual energy costs without improvements
2. Annual energy costs with improvements
3. Annual energy cost savings (1-2)
4. Payments for financing equipment
5. Payments for on-going services
6. Net annual
7. Cumulative cash flow
8. Net Present Value of cash flow
9. Interest rate

D. Schedule for Construction and Completion

In a Section to be labeled Section D, the proposer must provide a complete schedule for achievement of all major project milestones including:

- (a) Commencement and completion of comprehensive energy audits.
- (b) Preparation of list of proposed improvements, baseline calculations, and final contract proposal.
- (c) Execution of energy performance contract.
- (d) Obtaining all required permits and government approvals.
- (e) Procurement of all major equipment.
- (f) Commencement and completion of construction.
- (g) Training of school personnel.
- (h) Commissioning and commencement of normal operation.

E. Official Statement of Proposer

In a Section to be labeled **Section E**, the proposer must provide statements to the following effect signed by an individual authorized to bind the proposer:

The proposer shall include a statement to the effect that the proposal is a firm offer for a minimum 120 day period. The proposal shall also provide the following information: Name, title, address and telephone number of individual(s) with authority to negotiate

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and contractually bind the company and also who may be contacted during the period of proposal evaluation.

THE PROPOSER SHALL SPECIFICALLY GUARANTEE:

- total energy savings projected in the Comprehensive Energy Audit will be at least 85% of the energy savings projected in the proposal; and
- total project cost projected in the Comprehensive Energy Audit will be no more than 115% of the cost projected in the proposal.

If these conditions are not met, the Village may: terminate the agreement to conduct a Comprehensive Energy Audit without cost or penalty; renegotiate with the ESCO; or begin negotiations with another ESCO.

F. Addendum Relating to Alternative Financing (Optional)

In a section to be labeled, Section F, the ESCO may propose an alternative to the Village purchasing, financing and owning the new equipment to be installed as a result of this project. The proposal should clearly identify the advantages to the Village of this alternative.

Outline of Proposal Contents

The following is an outline of the required proposal contents as detailed above:

Table of Contents

Executive Summary (Not to exceed one page)

Section A - Contractor Background and Qualifications

Section A-1

Part I: Project team information

Part II: Prime contractor information

Section A-2 Annual reports or financial statements

Section A-3 Work experience

Section B - Technical Aspects of the Proposal

Section B-1 Energy Audit

Section B-2 Baseline and energy savings

Section B-3 Proposed energy efficiency measures

Section B-4 Description of on-going services

Section C - Financial Aspects of the Proposal

Section C-1 Total initial and annual project costs

Section C-2 Financial contract terms

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Section C-3 Financial projections

Section D - Schedule for Completion of the Project

Section E - Official Statement by the Proposer

Section F - Addendum Relating to Alternative Financing (Optional)

Appendices

Resumes of key personnel

Other relevant documentation

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Compliance with Laws, Licenses and Permits

The contract and any of the services or supplies provided hereunder are contingent and expressly conditioned upon the ability of the Contractor to provide the specified services or supplies consistent with all federal, state and local law and regulations. The provider agrees that he or she will fully comply with Federal, State, and Village policies, procedures, standards and laws, and rules and regulations. The Contractor and any subcontractors shall secure and maintain any necessary licenses and permits as may be required to provide the services or supplies under the contract and pay all related charges. If, for any reason, the Contractor's required licenses or permits are terminated, suspended, revoked or in any manner modified from their status at the time the contract becomes effective, the Contractor shall notify the VILLAGE OF BROCKPORT, NEW YORK immediately of such condition in writing.

Alternate Proposals

The VILLAGE OF BROCKPORT, NEW YORK reserves the right to consider alternatives submitted by Proposers that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in the Village's best interest. Proposers shall clearly identify and explain in detail where such alternatives deviate from or qualify the terms of the proposal and specifications as issued.

Disqualification

The Village reserves the right to refuse to issue awards to a prospective contractor should such Contractor fail to comply with any pre-qualification regulations of the Village, if any such regulations or requirements are cited, or otherwise included in the Request for Proposal.

Proposals received from Contractors who have previously failed to complete contracts within the time required, or who have previously performed similar work in an unsatisfactory manner, may be rejected. A Proposal may be rejected if the Contractor cannot show that it has the necessary ability, resources and qualified employees to commence the work at the time prescribed and thereafter to perform and complete the work at the rate or within the time specified. An offer may be rejected if the contractor is already obligated for the performance of other work that would delay the commencement, performance or completion of the work.

Prevailing Wage Rates

The successful bidder is required to pay the Prevailing Wage Rates and the Prevailing Hourly Supplements pursuant to Section 220-A of the NYS Labor Law.

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APPENDIX A

PRE-PROPOSAL CONFERENCE AND SITE VISITS

The Village will conduct a pre-proposal conference on May 16, 2016 at 1:00 PM. The pre-proposal conference will be held at 49 STATE STREET BROCKPORT, NY 14420. Village officials will be present to answer questions regarding the RFP and the project. Contractors interested in attending the conference must contact Daniel Hendricks at dhendricks@brockportny.org no later than May 11, 2016. The following information must be provided in the RSVP for all individuals expected to attend the pre-proposal conference.

Company Name
Name
Title
Email Address
Phone Number

Proposals will be accepted only from contractors represented at the pre-proposal conference. Following the conference, arrangements can be made by contacting the person named above to make an additional site visit(s) for the purpose of gathering additional information for the various Village facilities.

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Project Implementation Costs

Total Project Cost	Less than \$750,000	\$750,001 to \$1,500,000	Greater than \$1,500,001
Comprehensive Energy Audit:	\$0	\$0	\$0
Construction Mark-up (1)			
Design and Specifications (A/E Fees)	0.0 %	0.0 %	0.0 %
Administration	0.0 %	0.0 %	0.0 %
Cost of Risk	0.0 %	0.0 %	0.0 %
Construction Management	0.0 %	0.0 %	0.0 %
Hazardous Waste Administration	0.0 %	0.0 %	0.0 %
Profit	0.0 %	0.0 %	0.0 %
Training	0.0 %	0.0 %	0.0 %
Other: _____	0.0 %	0.0 %	0.0 %
Total	0.0 %	0.0 %	0.0 %
Ongoing Project Management Costs			
Annual Service Agreement/Maintenance Cost	\$0	\$0	\$0
Annual Savings Measurement and Verification	\$0	\$0	\$0
Other Service Fee	\$0	\$0	\$0
Other Project Information			
Escalation rate for Service	0.0 %/yr	0.0 %/yr	0.0 %/yr
Escalation rate for M&V	0.0 %/yr	0.0 %/yr	0.0 %/yr
Escalation rate for Energy	0.0 %/yr	0.0 %/yr	0.0 %/yr
Escalation rate for O&M Savings	0.0 %/yr	0.0 %/yr	0.0 %/yr

Note 1. For the purpose of calculating construction mark-up percentages, the unburdened construction cost shall be defined as the value of the final construction cost paid for facility improvements without any additional mark-up by the ESCO. Construction shall be defined as the cost of the facility improvement work and shall not include any of the activities listed above as overheads.

Note 2. The customer has the option to obtain all project costs and have each cost element making up the project be reviewed for cost reasonableness by an independent third party.

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**APPENDIX C
NEW YORK STATE ENERGY LAW
ARTICLE 9 - ENERGY PERFORMANCE CONTRACTS
IN CONNECTION WITH PUBLIC BUILDINGS AND FACILITIES**

§9-101. Purpose

The purpose of this article is to obtain long-term energy and cost savings for agencies and municipalities by facilitating prompt incorporation of energy conservation improvements or energy production equipment, or both, in connection with buildings or facilities owned, operated or under the supervision and control of agencies or municipalities, in cooperation with providers of such services and associated materials from the private sector. Such arrangements will improve and protect the health, safety, security, and welfare of the people of the state by promoting energy conservation and independence, developing alternate sources of energy, and fostering business activity.

§ 9-102. Definitions

For the purposes of this article, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context.

1. "Owner" means any state department, agency, board, commission, office, or division.
2. "Municipality" means a municipal corporation, as defined in section two of the general municipal law, school district, board of cooperative educational services, fire district, district corporation or special improvement district governed by a separate board of commissioners.
3. "Public authority" means any public authority, public benefit corporation, or the port authority of New York and New Jersey; to the extent its facilities are located within the state of New York.
4. "Energy performance contract" means an agreement for the provision of energy services, including but not limited to electricity, heating, ventilation, cooling, steam or hot water, in which a person agrees to install, maintain or manage energy systems or equipment to improve the energy efficiency of, or produce energy in connection with, a building or facility in exchange for a portion of the energy savings or revenues.

§ 9-103. Energy performance contracts

1. Notwithstanding any other provision of law, any agency, municipality, or public authority, in addition to existing powers, is authorized to enter into energy performance contracts of up to thirty-five years duration, provided, that the duration of any such contract shall not exceed the reasonably expected useful life of the energy facilities or equipment subject to such contract.
2. Any energy performance contract entered into by any agency or municipality shall contain the following clause: "This contract shall be deemed executor only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefore shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract."

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3. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be an ordinary contingent expense, and shall in no event be construed as or deemed a lease or lease-purchase of a building or facility, for purposes of the education law.

4. Agencies, municipalities, and public authorities are encouraged to consult with and seek advice and assistance from the New York state energy research and development authority concerning energy performance contracts.

5. Notwithstanding any other provision of law, in order to convey an interest in real property necessary for the construction of facilities or the operation of equipment provided for in an energy performance contract, any agency, municipality or public authority may enter into a lease of such real property to which it holds title or which is under its administrative jurisdiction as is necessary for such construction or operation, with an energy performance contractor, for the same length of time as the term of such energy performance contract, and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real property may remain useful to such agency, municipality or public authority for the purpose for which such real property was originally acquired or devoted or for which such real property is being used.

6. In lieu of any other competitive procurement or acquisition process that may apply pursuant to any other provision of law, an agency, municipality, or public authority may procure an energy performance contractor by issuing and advertising a written request for proposals in accordance with procurement or internal control policies, procedures, or guidelines that the agency, municipality, or public authority has adopted pursuant to applicable provisions of the state finance law, the executive law, the general municipal law, or the public authorities law, as the case may be.

7. Sections one hundred three and one hundred nine-b of the general municipal law shall not apply to an energy performance contract for which a written request for proposals is issued pursuant to subdivision six of this section.

8. In the case of a school district or a board of cooperative educational services, an energy performance contract shall be developed and approved pursuant to the requirements of this section and pursuant to regulations promulgated by the commissioner of education in consultation with the New York state energy research and development authority. Such regulations shall include, but shall not be limited to: a list of the appropriate type of projects that qualify as energy performance contracts; an approval process that includes review of the type and nature of the proposed project, the scope and nature of the work to be performed, and a detailed breakdown of the energy savings to be derived each year and for the duration of the energy performance contract; and a process for ensuring that districts have obtained financing at the lowest cost possible. Such regulations shall require that all energy performance contracts which contain maintenance and monitoring charges as part of the energy performance contract price state such maintenance and monitoring charges separately in the contract in a clear and conspicuous manner. Such regulations shall not apply to energy performance contracts entered into prior to the effective date of such regulations, nor shall they apply to energy performance contracts for which a request for proposals was issued prior to such effective date.

Added L. 1985, c. 733, § 2; amended L. 1989, c. 638, §§ 1, 2; amended L. 1994, c. 368, §§ 1, 2; amended L. 1995, c.83, §47; amended L. 1997, c. 436, §78.

**Village of Brockport, New York
REQUEST FOR PROPOSALS**

PROPOSAL INSTRUCTIONS AND CONDITIONS

APPENDIX D

FACILITY AND UTILITY INFORMATION

Information regarding the facilities to be included in the energy proposal will be presented at the pre-proposal meeting. Utility information will be provided at the pre-proposal meeting on May 16, 2016.